IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4258 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHANDRAKANTBHAI NATVERLAL GOHIL

Versus

CHAIRMAN

Appearance:

MR PK PANCHOLI for Petitioners

MR DA BAMBHANIA for Respondent No. 1

MR DIGANT P JOSHI, AGP, with

MR SP HASURKAR for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 30/03/2000

ORAL JUDGEMENT

Mr P.K.Pancholi for the petitioner. Mr S.P. Hasurkar, Asst. Govt. Pleader for the respondents. Mr

D.P.Joshi, Asst. Government Pleader for Mr S.P.Hasurkar. Rule was issued in this matter on 23.6.1998 and the matter was fixed for hearing in January 1999. Today when the matter is called out, Mr Pancholi pointed out a judgement and order passed in Special Civil Application No.6612 of 1998 (Coram: M.R.Calla, J.) dated 4.11.1998, a copy of which is taken on record. It is the case of Mr Pancholi that the said decision is against the same respondent i.e. Gujarat State Public Works Contracts Disputes Arbitration Tribunal. It is the case of Mr Pancholi that four petitioners who have approached this Court are working as peons with the respondent-Tribunal. Petitioners nos.1 and 2 are working for the last 4 years (on the date of filing of the petition) and they have continued till date. Petitioners nos.3 and 4 were working continuously for last two years (on the date of filing of the petition). It is the case of the petitioners that the respondent-Tribunal has considered only those candidates whose names have been sponsored by the Employment Exchange when they wanted to fill in the posts of peons on the establishment of the respondent. The interviews were held between 1.6.1998 and 4.6.1998. Mr Pancholi has also invited the attention of the Court to a circular of the Government of Gujarat dated 26.12.1980 wherein it is stated that whenever part-time employment has continued for 3 years, the head of the Department should make efforts as per prescribed recruitment rules and procedure for filling in the post to absorb such incumbents in regular posts that may be available under his control.

2 Mr Joshi for the respondent states that though the interviews were held in June 1998 as there was interim relief granted by this Court on 11.6.1998, the services of the petitioners are continued and no recruitment is made on regular basis.

3 In the facts and circumstances of the case it is directed that the petitioners' case shall be considered by the respondent in accordance with the aforesaid circular and also the recruitment rules and the procedure applicable to the respondent-Tribunal for filling in the posts. The respondent shall consider the case of the petitioners for filling in the post on regular basis within three months from the service of this order on respondent. Special Civil Application is accordingly allowed. Rule is made absolute in the aforesaid terms. No order as to costs.

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